


## WORKING MEMORANDUM

TO: ZONING AND PLANNING COMMITTEE OF THE BOARD OF ALDERMEN

FROM: CANDACE HAVENS, INTERIM DIRECTOR OF PLANNING AND DEVELOPMENT  
JURIS ALKSNTIS, INTERIM ZONING ADMINISTRATOR 

RE: #92-10, MEMBERSHIP REQUIREMENTS FOR PLANNING AND DEVELOPMENT BOARD

#93-10 MEMBERSHIP REQUIREMENTS FOR ZONING BOARD OF APPEALS.

DATE: MAY 11, 2010

CC: JOHN LOJEK, COMMISSIONER OF INSPECTIONAL SERVICES

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### BACKGROUND

On April 26, the Zoning and Planning Committee discussed possible guidelines for membership of the Planning and Development Board as well as the Zoning Board of Appeals. This working memo responds to a number of the questions raised during that discussion. The objective of this undertaking is to assist the City over time in encouraging volunteers to participate on the City's boards and commissions with applicants who bring diverse experiences, competencies, and backgrounds which together promote the execution and effectiveness of the respective boards in carrying out their mandates. It is anticipated that where needed, reasonable guidelines would facilitate both the appointment process as well as the approval process by the Board of Aldermen. Once guidelines are agreed upon, implementation would occur as vacancies arise.

### Enabling acts for membership in the ZBA and Planning and Development Board and Zoning Board of Appeals

MGL 40A gives authority to local jurisdictions to establish bylaws whereby they may designate a special permit granting authority, planning board, and/or appeals boards. While it is our sense that cities vary throughout the State in their structure for addressing land use permitting and appeals processes, additional research is needed to provide a clear picture of board composition and/or appointment guidelines in the context.

### Recent update to the composition of a Newton commission

On February 17, 2009, the Board of Aldermen approved Ordinance #Z-23 which altered the title, powers and duties, and composition of the **Urban Design Commission**. Membership is now described as follows:

*"There shall be an urban design commission of eight (8) members for the preservation, improvement and development of the physical environment of the*

*city. The members of the commission shall, so far as practicable, be selected to provide representation from the fields of city planning, landscape architecture, horticulture, arboriculture, architecture, landscaping and related fields of specialization, and so far as practicable, be selected to provide representation from as many wards of the city as possible."*

The above language illustrates an approach to guiding the selection of members incorporated into the ordinance itself. In this case, the guidance sets out fields of competency along with the goal to encourage geographic representation. However, it appears that no requirements are stated or guidance provided within the Newton Revised Ordinances or the respective by-laws or rules of the Planning and Development Board or the Zoning Board of Appeals for the selection and appointment of board members.

### **Planning and Development Board**

In Newton, the Planning and Development Board performs multiple roles and related responsibilities. These include functioning as:

- Planning and Development Board: holds public hearings, reviews and votes on petitions involving special permits, rezoning, and also amendments to the Zoning Ordinance. (NOTE: In Newton, Special Permit Granting Authority is exercised by the Board of Aldermen.)
- Board of Survey: reviews and approves subdivision plans
- Community Development Advisory Board: holds public hearings, reviews, approves, and oversees implementation of the 5-year Consolidated Plan, Annual Action Plan, Consolidated Annual Performance Evaluation Report, and the Citizen Participation Plan pursuant to Federal statutes and regulations pertaining to the CDBG, ESG, and HOME programs
- Newton Community Development Authority Advisory Board: reviews and advises the Authority (sole member authority comprised of the Director of Planning and Development, *ex officio*) with respect to projects and plans undertaken by the Authority, including housing and economic development loans

The Board also:

- takes up various land use and planning issues such as traffic/parking, home businesses, attached dwellings, among others;
- considers and makes recommendations on proposed historic landmark decisions;
- considers and makes recommendations on proposed scenic roads and regulations;
- considers and makes recommendations on the Comprehensive Plan; and
- considers and makes recommendations on proposals for the acquisition of real property.

### Planning and Development Board composition

Board bylaws, Article 2, Membership, together with Newton Revised Ordinances Sec. 22-3, provide for:

- Mayoral appointment of five resident members, subject to approval of the Board of Aldermen. (five-year term)
- State appointment of one member by the Secretary of Housing and Community Development (three-year term)
- Membership *ex officio*, by Director of Planning and Development
- Mayoral appointment of up to five alternate resident members, subject to approval of Board of Aldermen (five-year term)

### Current Board members

#### Regular Members

Tabetha McCartney, Chair  
Joyce Moss, Vice-Chair  
David Banash  
Leslie Burg  
Scott Wolf

#### Background/Expertise

Affordable Housing specialist  
City Planner  
Attorney  
Generalist  
Attorney

Doug Sweet (State appointee)  
Candace Havens, *ex officio*

Tenant-landlord mediation  
Interim Dir. of Planning and Dev.

#### Alternates

Felix Zemel  
Howard Haywood

Boston Housing Authority inspector  
Engineer

### Feedback from the Planning and Development Board

This Board has as yet not had an opportunity to fully discuss and respond to the subject docket item, and is planning to do so at its June meeting. In the interim, Board members have the following observations:

- Limiting membership categories may make it harder to fill vacancies.
- Approximately 60% of the Board's work is related to the community development side of its responsibilities.
- Membership guidelines would need to reflect the above emphasis and facilitate the recruitment of persons who have backgrounds in areas such as human services and affordable housing.

### **Zoning Board of Appeals**

The Zoning Board of Appeals is tasked with acting upon requests for variances as well as Comprehensive Permits under the provisions of 40B. The Board also hears appeals of decisions made by the Commissioner of Inspectional Services actions on compliance with the City's Zoning Ordinance. In recent years, the ZBA has reviewed about one Comp Permit a year with extensive analysis typically provided by Planning Department staff.

### **Zoning Appeals Board composition**

ZBA Rules, Section 1. Membership, together the Newton Revised Ordinances Section 30-27 provide for:

- Mayoral appointment of five members\* subject to approval of the Board of Aldermen. (three-year term)
- Mayoral appointment of five associate members\* subject to approval of the Board of Aldermen (one-year term)

*\*Residency requirement not stated.*

### **Current ZBA membership**

#### **Members**

Harvey A. Creem (Chairperson)  
Joseph G. Cosgrove, Esq.  
Vincent Farina  
Brooke K. Lipsitt (Vice Chairperson)  
Selma H. Urman, Esq.

#### **Expertise/Background**

Certified Public Accountant  
Real estate law  
Real estate broker  
Former Bd. of Ald. president  
Presiding officer, Mass. Energy  
Facil. Siting Board.

#### **Associates**

Hillary S. Brown  
William M. McLaughlin  
James H. Mitchell, Esq.  
Thomas J. Phillips, Esq.  
Jonathan S. Sales

Asset manager, commercial prop.  
Real estate invest. & dev.  
Real estate invest., dev., mgmt  
Commercial real estate/LU law  
Corporate law practice

### **Feedback from the Zoning Board of Appeals**

This Board has as yet not had an opportunity to fully discuss and respond to the subject docket item. In the interim, some Board members have expressed an interest in wanting to be included in this discussion and a question has been raised regarding the extent to which representation of professional architects and engineers on the Board may or may not be necessary.